

**AMENDMENT NO. 1
FOR PROFESSIONAL SERVICES AGREEMENT
BETWEEN Toyon Associates Inc. AND
THE NATIVIDAD MEDICAL CENTER
FOR
Rural Floor Budget Neutrality Appeal Services**

The parties to Professional Services Agreement ("Agreement"), dated June 11, 2009 between the County of Monterey, on behalf of Natividad Medical Center ("NMC"), and Toyon Associates Inc (Contractor), hereby agree to amend their Agreement (No. A-11583) on the following terms and conditions:

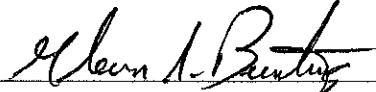
WHEREAS, the County and Contractor wish to amend the Agreement to extend the term end date to allow for existing services to continue.

WHEREAS, the County and Contractor wish to amend the Agreement to increase the amount of the Agreement because of the term extension.

1. Contractor will continue to provide NMC with the same scope of services as stated in the original Agreement (No. A-11583).
2. Section 2. "PAYMENTS BY NMC" shall be amended by removing, "*The total amount payable by NMC to CONTRACTOR under this Agreement shall not exceed the sum of \$300,000.*" and replacing it with "*The total amount payable by County to CONTRACTOR under Agreement No. (A-11583) shall not exceed the total sum of \$600,000 for the full term of the Agreement.*"
3. Section 3. "TERMS OF AGREEMENT" shall be amended by removing, "*The term of this Agreement is from June 11, 2009 to June 30, 2012 unless sooner terminated pursuant to this Agreement*" and replacing it with "*The term of this Agreement is from June 11, 2009 to June 30, 2015 unless sooner terminated pursuant to this Agreement.*"
4. All other terms and conditions of the Agreement shall continue in full force and effect. Except as provided herein, all remaining terms, conditions and provisions of the Agreement are unchanged and unaffected by this Amendment and shall continue in full force and effect as set forth in the Agreement.
5. A copy of this Amendment shall be attached to the original Agreement (No. A-11583).
6. The effective date of this Amendment is July 1, 2012.

IN WITNESS WHEREOF, the parties hereto are in agreement with this Amendment on the basis set forth in this document and have executed this Amendment on the day and year set forth herein.

CONTRACTOR

Signature 1 

Dated 3/20/2012

Printed Name Glenn S. Bunting

Title Vice President

Signature 2 _____

Dated _____

Printed Name _____

Title _____

****INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any and shall personally sign the Agreement.*

NATIVIDAD MEDICAL CENTER

Signature _____
Purchasing Manager

Dated _____

Signature 
NMC - CEO

Dated 4/3/12

Approved as to Legality and Legal Form:

Charles J. McKee, County Counsel

By 

Stacy Saetta, Deputy
Attorneys for County and NMC

Dated: 4/5, 2012

Reviewed as to fiscal provisions

Auditor-Controller
County of Monterey

4-6-12

MONTEREY COUNTY BOARD OF SUPERVISORS

MEETING:	December 8, 2009	AGENDA NO.:
SUBJECT:	Authorize the Purchasing Manager for Natividad Medical Center (NMC) to execute the Agreement with Toyon Associates Inc. for Rural Floor Budget Neutrality Appeal Services at NMC in an amount not to exceed \$300,000 for the period June 11, 2009 to June 30, 2012.	
DEPARTMENT:	Natividad Medical Center	

RECOMMENDATION:

It is recommended the Board of Supervisors authorize the Purchasing Manager for Natividad Medical Center (NMC) to execute the Agreement with Toyon Associates Inc. for Rural Floor Budget Neutrality Appeal Services at NMC in an amount not to exceed \$300,000 for the period June 11, 2009 to June 30, 2012.

SUMMARY/DISCUSSION:

The Medicare Prospective Payment System (PPS) Program is a budget neutral program. This means that any increase or decrease in any funding source has to be offset by applying a budget neutrality factor, since the annual Medicare PPS budget is set each year by Congress and cannot be adjusted.

As finalized in the 2009 PPS regulations, Medicare rural floor budget neutrality factors will be applied on a state-by-state basis. There will be a three-year transition: FFY 2009 is at 20% State and 80% Federal; FFY 2010 is at 50% State and 50% Federal; and FFY 2011 is at 100% State. Prior to the change the budget neutrality factor was applied based on National data rather than State data.

The regulations require each State to have a rural floor. The rural floor is the wage index established based on the wage indices for all the hospitals in the State. If a hospital's wage index is below the rural floor, it receives the wage index set at the rural floor. This means that California's rural floor will be based on the wage indices of California hospitals that are not subject to the rural floor. Since there are a significant number of hospitals in Southern California that are subject to the rural Floor, the transition to specific budget neutrality factor in California will have a large negative impact on California hospitals not subject to the rural floor, especially Northern California Hospitals.

Since Natividad Medical Center and a large number of hospitals in California are impacted by the rural floor, transition to a specific budget neutrality factor may have a large negative impact. The intention of this contract is to dispute the change from a national budget neutrality factor to individual state neutrality factors through a group appeal.

OTHER AGENCY INVOLVEMENT:

The Agreement has been reviewed and approved by County Counsel, the Auditor/Controller's office and the Natividad Medical Center Board of Trustees.

FINANCING:

The cost for this Agreement is not to exceed \$300,000 and will be entirely offset by increases in Medicare reimbursement. Payment for the services in this contract will be calculated as 25% of the additional Medicare reimbursement realized by Natividad. No fees or expenses are due to Toyon unless additional reimbursement is realized.

Prepared by:
Michael E. McGinnis
Chief Financial Officer
October 30, 2009

Harry Weis
Chief Executive Officer

Attachments: Agreement, Board Order

**Before the Board of Supervisors in and for the
County of Monterey, State of California**

Agreement No: A - 11583

Authorize the Purchasing Manager for Natividad Medical)
Center (NMC) to execute the Agreement with Toyon)
Associates Inc. for Rural Floor Budget Neutrality Appeal)
Services at NMC in an amount not to exceed \$300,000 for the)
period June 11, 2009 to June 30, 2012.)

Upon motion of Supervisor Salinas, seconded by Supervisor Parker, and carried by those members present, the Board hereby:

Authorized the Purchasing Manager for Natividad Medical Center (NMC) to execute the Agreement with Toyon Associates Inc. for Rural Floor Budget Neutrality Appeal Services at NMC in an amount not to exceed \$300,000 for the period June 11, 2009 to June 30, 2012.

PASSED AND ADOPTED this 8th day of December, 2009, by the following vote, to wit:

AYES: Supervisors Armenta, Salinas, Calcagno, Parker, Potter
NOES: None
ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 75 for the meeting on December 8, 2009.

Dated: December 17, 2009

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By

Deputy



**COUNTY OF MONTEREY AGREEMENT FOR PROFESSIONAL SERVICES
(MORE THAN \$100,000)**

This Professional Services Agreement (hereinafter "Agreement") is made by and between Natividad Medical Center ("NMC"), a general acute care teaching hospital wholly owned and operated by the County of Monterey, which is a political subdivision of the State of California and **Toyon Associates Inc.**

_____ (hereinafter "CONTRACTOR").

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

1. **SERVICES TO BE PROVIDED.** NMC hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of the Agreement. The services are generally described as follows: **Provide Rural Floor Budget Neutrality Appeal Services**

2. **PAYMENTS BY NMC.** NMC shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by NMC to CONTRACTOR under this Agreement shall not exceed the sum of **\$300,000**

3. **TERMS OF AGREEMENT** The term of this Agreement is from **Jun 11, 2009** to **Jun 30, 2012** unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and NMC and with NMC signing last and CONTRACTOR may not commence work before NMC signs this Agreement.

4. **ADDITIONAL PROVISIONS/EXHIBITS.** The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

Exhibit A Scope of Services/Payment Provisions

Exhibit B Insurance Justification

5. PERFORMANCE STANDARDS.

5.1. CONTRACTOR warrants that CONTRACTOR and Contractor's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of NMC, or immediate family of an employee of NMC.

5.2. CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.

5.3. CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use NMC premises, property (including equipment,

instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

6. PAYMENT CONDITIONS.

- 6.1. CONTRACTOR shall submit to the Contract Administrator an invoice on a form acceptable to NMC. If not otherwise specified, the CONTRACTOR may submit such invoice periodically or at the completion of services, but in any event, not later than thirty (30) days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for Administrator or his or her designee shall certify the invoice, either in the requested amount or in such other amount as NMC approves in conformity with this Agreement, and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within thirty (30) days of receiving the certified invoice.
- 6.2. CONTRACTOR shall not receive reimbursement for travel expenses unless set forth in this Agreement; and then only in accordance with any applicable County policies.

7. TERMINATION.

- 7.1. During the term of this Agreement, NMC may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.
- 7.2. NMC may cancel and terminate this Agreement for good cause effective immediately upon written notice to Contractor. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If NMC terminates this Agreement for good cause, NMC may be relieved of the payment of any consideration to Contractor, and NMC may proceed with the work in any manner, which NMC deems proper. The cost to NMC shall be deducted from any sum due the CONTRACTOR under this Agreement.

8. **INDEMNIFICATION:** CONTRACTOR shall indemnify, defend and hold harmless, NMC and the County of Monterey (hereinafter "County"), its officers, agents and employees from any and all claims, liability, losses, whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the Contractor's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of NMC. "Contractor's performance" includes Contractor's action or inaction and the action or inaction of Contractor's officers, employees, agents and subcontractors.

9. INSURANCE.

9.1. Evidence of Coverage:

Prior to commencement of this Agreement, the CONTRACTOR shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements

executed by the insurance carrier shall accompany the certificate. In addition, the CONTRACTOR upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to NMC's Contracts/Purchasing Department, unless otherwise directed. The CONTRACTOR shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and NMC has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

- 9.2. Qualifying Insurers: All coverage's except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A-VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by NMC's Contracts/Purchasing Director.
- 9.3. Insurance Coverage Requirements: Without limiting Contractor's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Exemption/Modification (Justification attached; subject to approval).

Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Exemption/Modification (Justification attached; subject to approval).

Workers' Compensation Insurance, If CONTRACTOR employs other in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

Exemption/Modification (Justification attached; subject to approval).

Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

Exemption/Modification (Justification attached; subject to approval).

9.4. Other Insurance Requirements:

All insurance required by this Agreement shall be with a company acceptable to NMC and issued and executed by an admitted insurer authorized to transact insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that NMC shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for CONTRACTOR and additional insured with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional insureds with respect to liability arising out of the Contractor's work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the Contractor's insurance. The required endorsement from for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement from for Automobile Additional Insured Endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by NMC, CONTRACTOR shall file certificates of insurance with NMC's Contracts/Purchasing Department, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five (5) calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

CONTRACTOR shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by NMC, annual certificates to NMC's Contracts/Purchasing Department. If the certificate is not received by the expiration date, NMC shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles NMC, at its sole discretion, to terminate the Agreement immediately.

10. RECORDS AND CONFIDENTIALITY.

10.1. Confidentiality, CONTRACTOR and its officers, employees, agents and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from NMC or prepared in connection with the performance of this

Agreement, unless NMC specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to NMC any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out Contractor's obligations under this Agreement.

10.2. NMC Records. When this Agreement expires or terminates, CONTRACTOR shall return to NMC and NMC records which CONTRACTOR used or received from NMC to perform services under this Agreement.

10.3. Maintenance of Records. CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three year period, then CONTRACTOR shall retain said records until such action is resolved.

10.4. Access to and Audit of Records. NMC shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess or \$10,000, the parties to this Agreement may be subject, at the request of NMC or as part of any audit of NMC, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

10.5. Royalties and Inventions. NMC shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize other to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of NMC.

11. **NON-DISCRIMINATION**. During the performance of this Agreement, Contractor, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in Contractor's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, full comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

12. **COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANT**. If this Agreement has been or will be funded with monies received by NMC pursuant to a contract with the state or federal government in which NMC is the grantee, CONTRACTOR will comply with all the provisions of said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, NMC will deliver a copy of said contract to Contractor, at no cost to Contractor.

13. **INDEPENDENT CONTRACTOR.** In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is at all times acting and performing as an independent CONTRACTOR and not as an employee of NMC. No offer or obligation of permanent employment with NMC or particular County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from NMC any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for an obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of Contractor's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold NMC and the County of Monterey harmless from any and all liability, which NMC may incur because of Contractor's failure to pay such taxes.
14. **NOTICES.** Notices required under this Agreement shall be delivered personally or by first-class, postage per-paid mail to NMC and Contractor's contract administrators at the addresses listed below.

<p>FOR NATIVIDAD MEDICAL CENTER: Contracts/Purchasing Manager</p> <hr/> <p>Name and Title</p> <hr/> <p>1441 Constitution Blvd. Salinas, CA. 93906</p> <p>Address</p> <hr/> <p>831.755.4111</p> <p>Phone</p>	<p>FOR CONTRACTOR:</p> <p><u>Thomas P. KNIGHT - PRESIDENT</u></p> <p>Name and Title</p> <hr/> <p><u>1800 SUTTER ST. #600 CONCORD, CA 94520</u></p> <p>Address</p> <hr/> <p><u>925.685.9312</u></p> <p>Phone</p>
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15. MISCELLANEOUS PROVISIONS.

- 15.1. Conflict of Interest. CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly, or indirectly conflict in any manner or to any degree with the full and complete performance of the professional services required to be rendered under this Agreement.
- 15.2. Amendment. This Agreement may be amended or modified only by an instrument in writing signed by NMC and the Contractor.
- 15.3. Waiver. Any waiver of any terms and conditions of this Agreement must be in writing and signed by NMC and the Contractor. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 15.4. Contractor. The term "Contractor" as used in this Agreement includes Contractor's officers, agents, and employees acting on Contractor's behalf in the performance of this Agreement.

- 15.5. Disputes. CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 15.6. Assignment and Subcontracting. The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of NMC. None of the services covered by this Agreement shall be subcontracted without the prior written approval of NMC. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.
- 15.7. Successors and Assigns. This Agreement and the rights, privileges, duties, and obligations of NMC and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 15.8. Compliance with Applicable Law. The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.9. Headings. The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10. Time is of the Essence. Time is of the essence in each and all of the provisions of this Agreement
- 15.11. Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.
- 15.12. Non-exclusive Agreement. This Agreement is non-exclusive and both NMC and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.
- 15.13. Construction of Agreement . NMC and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.
- 15.14. Counterparts . This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 15.15. Integration. This Agreement, including the exhibits, represents the entire Agreement between NMC and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, Representations, or agreements, either written or oral, between NMC and CONTRACTOR as of the effective date of this Agreement, which is the date that NMC signs the Agreement.
- 15.16. Interpretation of Conflicting Provisions . In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

NATIVIDAD MEDICAL CENTER

By: [Signature]
NMC Contracts/Purchasing Agent

Date: 12/15/09

By: [Signature] For Lt. W&S
Department Head (if applicable)

Date: 10/14/09

By: [Signature]
William Litt, Deputy County Counsel

Date: 10/30/09

By: [Signature]
Auditor/Controller

Date: 10/30/09

CONTRACTOR

Toyon Associates, Inc.
Contractor's Business Name***

[Signature]
Signature of Chair, President, or Vice-President

Thomas P Knight
Name and Title

Date: 10/10/09

By: [Signature]
Signature of Secretary, Asst. Secretary,
CFO, Treasurer or Asst. Treasurer

JANANNA M KNIGHT, Secretary
Name and Title

Date: 10/10/09

***INSTRUCTIONS: IF CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in and individual capacity, the individual shall set forth the name of the business, if any and shall personally sign the Agreement.

RURAL FLOOR BUDGET NEUTRALITY APPEAL AGREEMENT

This Agreement is made by and between Natividad Medical Center (Hospital) and Toyon Associates, Inc. ("Toyon"), a California Corporation and is for the purpose of pursuing additional PPS reimbursement through the Medicare appeals process by disputing CMS' transition to a State level rural floor budget neutrality factor.

1. Background

The PPS Program is a budget neutral program. This means that any increase or decrease in any funding source has to be offset by applying a budget neutrality factor, since the annual Medicare PPS budget is set each year by Congress and cannot be adjusted.

As finalized in the 2009 PPS regulations, the budget neutrality factor will be applied on a State-by-State basis. There will be a three-year transition: FFY 2009 is at 20% State and 80% Federal; FFY 2010 is at 50% State and 50% Federal; and FFY 2011 is at 100% State. Prior to the change the budget neutrality factor was applied based on National data rather than State data.

The regulations require each State to have a rural floor. The rural floor is the wage index established based on the wage indices for all the hospitals in the State. If a hospital's wage index is below the rural floor, it receives the wage index set at the rural floor. This means that California's rural floor will be based on the wage indices of California hospitals that are not subject to the rural floor. Since there are a significant number of hospitals in Southern California that are subject to the rural floor, the transition to specific budget neutrality factor in California will have a large negative impact on California hospitals not subject to the rural floor, especially Northern California hospitals.

We intend to dispute the change from a national budget neutrality factor to individual state neutrality factors through a group appeal.

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1. Background

As finalized in the 2009 PPS regulations, the budget neutrality factor will be applied on a State-by-State basis. There will be a three-year transition: FFY 2009 is at 20% State and 80% Federal; FFY 2010 is at 50% State and 50% Federal; and FFY 2011 is at 100% State. Since there are a significant number of Hospitals in California that are subject to the rural floor, the transition to specific budget neutrality factor in California will have a large negative impact on California's Hospitals. We intend to dispute the change from a national budget neutrality factor to individual state neutrality factors through a group appeal.

2. Scope of Services

Toyon's services will include this appeal, but are not limited to the following:

1. Prepare and file appeal letters to the Provider Reimbursement Review Board (PRRB) to establish the issue.
2. Develop appeal strategy, perform research, and obtain documentation needed to pursue the rural floor budget neutrality issue.
3. Prepare and file preliminary and final position papers.
4. Review the Intermediary's preliminary and final position papers.
5. Attempt to obtain administrative resolutions with the Intermediary in advance of scheduled PRRB hearings.
6. Represent Hospital at PRRB hearings if administrative resolution cannot be obtained. This includes preparation of testimony, evidence, and hearing strategy.
7. If a PRRB Medicare hearing is necessary, we will engage an attorney to assist in handling the case and will prepare all needed hearing documentation.
8. Perform all follow up needed with the Medicare Program with respect to appeals and reopening requests.
9. Review any revised settlements resulting from appeals or reopenings and any hearing decisions and provide recommendations to Hospital.
10. Pursue unfavorable PRRB decisions to court if, in Toyon's opinion, there is sufficient likelihood of success and sufficient reimbursement value in relation to the cost of pursuing the case.

3. Cost Reporting Periods Covered By This Agreement

We will pursue the rural floor budget neutrality issues for cost reporting periods (6/30/09 – 6/30/12) that fall within the three year transition to a State level budget neutrality factor.

4. Compensation

a. Contingent Fee Option:

Payment for the services set forth in this contract will be calculated as 25% of the additional Medicare reimbursement realized by Hospital as a result of our work. The additional reimbursement will either be a payment to the Hospital by the Medicare Intermediary or a reduction of an outstanding liability. Payment is due to Toyon per the County of Monterey Professional Services Agreement and upon the Hospital's receipt of reimbursement from the Medicare Intermediary or notification that its liability has been decreased. No fees or expenses are due to Toyon unless additional reimbursement is realized.

b. Hourly Rate Plus Expense Option

Payment for the services set forth in this contract shall be based on standard hourly rates in effect times the actual hours spend on the project plus expenses incurred. A retainer of \$5,000 shall be required. All payments will be in accordance with the County of Monterey Professional Services Agreement.

5. HIPAA Compliance

Natividad Medical Center acknowledges that this engagement may involve the review of individual patient information. For purposes of the federal HIPAA compliance regulations (45 CFR Sections 160 and 164), Toyon Associates is acting as a Business Associate (BA). Under these regulations Hospital is a Covered Entity (CE). Individual patient information is considered protected health information (PHI) for HIPAA compliance purposes. As a BA, Toyon Associates, Inc. agrees to the following obligations and activities:

(a) Toyon Associates (TA) agrees to not use or disclose PHI other than as permitted or required by this agreement or as required by law. (b) TA agrees to use appropriate safeguards to prevent the use or disclosure of PHI other than provided by this agreement, or as required by law. (c) TA agrees to mitigate, to the extent practicable, any harmful effect of any use or disclosure that is known to us in violation to the terms of this Agreement. (d) TA agrees to report to CE any use or disclosure of the PHI not provided for by this agreement of which we become aware. (e) TA agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by TA on behalf of CE, agrees to the same restrictions and conditions that apply through this Agreement with respect to such information. (f) TA agrees to provide access, at the request of CE, and in the time and manner Agreed upon, to PHI in a Designated Record Set, to CE or, as directed by CE, to an individual in order to meet the requirements under 45 CFR 164.524. (g) TA agrees to make any amendment to PHI in a Designated Record Set that the CE directs or agrees to pursuant to 45 CFR 164.526 at the request of CE or an Individual, and in the time and manner agreed to. (h) TA agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by TA on behalf of, CE available to the Secretary, in a time and manner agreed to or

designated by the Secretary, for purposes of the Secretary determining CE's compliance with the Privacy Rule. (i) TA agrees to document such disclosures of PHI and information related to such disclosures as would be required for CE to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528. (j) TA agrees to provide CE or an Individual, in time and manner agreed to, information collected in accordance with Section (i) above of this Agreement, to permit CE to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528.

6. Cooperation of Natividad Medical Center

Natividad Medical Center shall cause its agents and employees to comply with all reasonable requests for information and documents from Toyon in connection with its pursuit of Medicare cost report audit appeals.

7. Confidentiality

Natividad Medical Center agrees that it will not release to any third party, except when required by law, material that has been prepared by Toyon, in connection with the work performed under this Agreement. Toyon agrees to maintain the confidentiality of Hospital's records and all information derived therefrom in accordance with all applicable state and federal laws and regulations pertaining to the use and disclosure of such documentation, and to use any and all information only to the extent necessary for Toyon to perform its obligations under this Agreement. Both parties agree that this Agreement shall be treated as confidential and copies thereof shall not be disclosed unless required under applicable federal or state law.

8. Access to Books and Records

Until the expiration of four years after furnishing the services provided under this contract, we will make available to the Secretary, U.S. Department of Health and Human Services, and the U.S. Comptroller General, and their representatives, this contract and all books, documents, and records necessary to certify the nature and extent of the costs of those services.

9. Term

This Agreement is effective June 11, 2009 and will remain in effect until June 10, 2012.

10. Amendments

This Agreement and the County of Monterey Professional Services Agreement contains the entire agreement between the parties and may not be modified or amended orally, but only by written agreement, executed by both parties.

11. Arbitration

Any controversy or claim arising out of or relating to this Agreement, or any breach thereof, shall be settled and resolved by binding arbitration in accordance with this provision, and a judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Any one party to this Agreement may initiate arbitration by delivering written notice thereof to the other party. Such written notice shall state the intent of the party to have a controversy resolved by arbitration shall specify the controversy and matters to be resolved and shall designate an arbitrator who shall not have an economic, social or other relationship to the party requesting arbitration ("independent" arbitrator). Delivery may be effected by depositing a notice of such intention addressed to each party, sent by registered mail, return receipt requested, sealed and postage prepaid in the United States Mail, by facsimile transmission, or by personal delivery. Arbitration shall be by the arbitrator so designated unless the other party to whom notice has been delivered requests arbitration by three independent arbitrators within ten (10) days after receipt of the Notice of Intention to Arbitrate. If such a request is made, the party making it shall designate a second independent arbitrator and the two arbitrators so designated shall select a third independent arbitrator.

The arbitration shall be conducted by the arbitrator(s) pursuant to the provisions of the California Code of Civil Procedure relating to civil arbitrations and the Rules of Court for the California Superior Court, as may be amended and existing from time to time. A decision of any two arbitrators shall be sufficient to constitute an enforceable award under the provisions of this section. The costs incurred in the arbitration, including the fees paid to the arbitrator(s) shall be shared equally by the parties. The arbitrator(s) shall be entitled to retain legal counsel in connection with the arbitration of the dispute submitted to arbitration of the joint expense of the parties during the arbitration proceedings.

If any party to this Agreement refuses to cooperate voluntarily and without court order in the arbitration process described herein, then, provided that notice of the time and place of the arbitration hearing is given to such party, the arbitration shall proceed in the absence of such party. Any award made by arbitration shall be final and binding on each party to this Agreement, and at the election of any party to the arbitration, a judgment on the arbitration award may be entered in any court having jurisdiction thereof.

12. Entire Agreement

Each party acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms. Each party further acknowledges that The County of Monterey Professional Services Agreement and this Agreement is the complete and exclusive statement of the agreement between the parties that supersedes all prior correspondence, understandings, and all other agreements, oral and written, between the parties, relating to the subject matter of this Agreement.

13. Governing Law

This Agreement shall be governed by, and construed under, the laws of the State of California.

14. Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of Hospital and its successors, assigns, trustees, and trustees-in-bankruptcy.

15. Independent Contractor

Toyon shall be an independent contractor, and neither Toyon nor any employee of Toyon shall be, or be deemed to be, an employee of Hospital. Toyon shall maintain in full force during the term hereof Workers' Compensation insurance covering all persons whom Toyon may employ in the performance of this Agreement, in accordance with the laws of the State of California.

16. Disclosure

Neither Toyon nor any agent or employee of Toyon that will be providing services under this Agreement has been excluded, debarred or otherwise Santactioned from participation in any federal or state healthcare program, including the Medicare, Medicaid or Champus programs or has been convicted or found to have violated any federal or state fraud and abuse laws or illegal remuneration law.

17. Limitation of Liability

Toyon shall not be liable to Hospital under the Agreement for any damage or loss in excess of the total amount paid by Hospital to Toyon under this Agreement. Toyon shall specifically have no liability or responsibility for any consequential damages of any type claimed by Hospital as a result of any breach of this Agreement, or any failure by Toyon to perform any services set forth herein.

18. Authorization

Natividad Medical Center shall indicate its acceptance of this Agreement through execution by a Hospital representative in the signature block below and will indicate the fee option selected by initially one of the boxes. Toyon's obligation to begin performance commences when it receives (by mail or fax) an executed copy of this Agreement from Hospital.

TOYON ASSOCIATES, INC.
A California Corporation


Signature

Print Name

Title

Date

NATIVIDAD MEDICAL CENTER

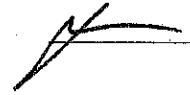


Signature

Fee Option: Contingent Fee Hourly Fee

M. McInnis For Lt. WES

Print Name

Initials:  _____

CEO

Title

10/14/97

Date

BUSINESS ASSOCIATE AGREEMENT

This Agreement, hereinafter referred to as "Agreement", is made effective July 1, 2009 by and between the County of Monterey, a political subdivision of the State of California, on behalf of Natividad Medical Center, hereinafter referred to as "Covered Entity", and Toyon Associates Inc. hereinafter referred to as "Business Associate", (individually, a "Party" and collectively, the "Parties").

WITNESSETH:

WHEREAS, Sections 261 through 264 of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, known as "the Administrative Simplification provisions," direct the Department of Health and Human Services to develop standards to protect the security, confidentiality and integrity of health information; and

WHEREAS, pursuant to the Administrative Simplification provisions, the Secretary of Health and Human Services has issued regulations modifying 45 CFR Parts 160 and 164 (the "HIPAA Privacy Rule"); and

WHEREAS, the State of California has enacted statutes designed to safeguard patient privacy including, without limitation, the Confidentiality of Medical Information Act ("CMIA"), California Civil Code § 56 *et seq.*, Senate Bill 541, enacted September 30, 2008, and Assembly Bill 211, enacted September 30, 2008; and

WHEREAS, the parties acknowledge that California law may include provisions more stringent and more protective of the confidentiality of health information than the provisions of HIPAA; and

WHEREAS, the Parties wish to enter into or have entered into an arrangement whereby Business Associate will provide certain services to Covered Entity, hereby referred to as the "Service Agreement" and, pursuant to such arrangement, Business Associate may be considered a "business associate" of Covered Entity as defined in the HIPAA Privacy Rule and under California law; and

WHEREAS, Business Associate may have access to Protected Health Information (as defined below) in fulfilling its responsibilities under such arrangement;

THEREFORE, in consideration of the Parties' continuing obligations under the Service Agreement, compliance with the HIPAA Privacy Rule, compliance with California law, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to the provisions of this Agreement in order to address the requirements of the HIPAA Privacy Rule and California law and to protect the interests of both Parties.

I. DEFINITIONS

Except as otherwise defined herein, any and all capitalized terms in this Section shall have the definitions set forth in the HIPAA Privacy Rule. In the event of an inconsistency between the provisions of this Agreement and the mandatory provisions of the HIPAA Privacy Rule, as amended, the HIPAA Privacy Rule shall control. In the event of an inconsistency between the provisions of this Agreement and mandatory provisions of CMIA or other California law, California law shall control. Where provisions of this Agreement are different than those mandated in the HIPAA Privacy Rule and California law, but nonetheless are permitted by the HIPAA Privacy Rule and California law, the provisions of this Agreement shall control.

The term "Protected Health Information" means individually identifiable health information including, without limitation, all information, data, documentation, and materials, including without limitation, demographic,

medical and financial information, that relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

Business Associate acknowledges and agrees that all Protected Health Information that is created or received by Covered Entity and disclosed or made available in any form, including paper record, oral communication, audio recording, and electronic display by Covered Entity or its operating units to Business Associate or is created or received by Business Associate on Covered Entity's behalf shall be subject to this Agreement.

II. CONFIDENTIALITY REQUIREMENTS

(a) Business Associate agrees:

(i) to access, use, or disclose any Protected Health Information solely: (1) for meeting its obligations as set forth in any agreements between the Parties evidencing their business relationship or (2) as required by applicable law, rule or regulation, or by accrediting or credentialing organization to whom Covered Entity is required to disclose such information or as otherwise permitted under this Agreement, the Service Agreement (if consistent with this Agreement the HIPAA Privacy Rule, and California law), the HIPAA Privacy Rule, or California law and (3) as would be permitted by the HIPAA Privacy Rule and California law if such use or disclosure were made by Covered Entity;

(ii) at termination of this Agreement, the Service Agreement (or any similar documentation of the business relationship of the Parties), or upon request of Covered Entity, whichever occurs first, if feasible, Business Associate will return or destroy all Protected Health Information received from or created or received by Business Associate on behalf of Covered Entity that Business Associate still maintains in any form and retain no copies of such information, or if such return or destruction is not feasible, Business Associate will extend the protections of this Agreement to the information and limit further access, uses, and disclosures to those purposes that make the return or destruction of the information not feasible; and

(iii) to ensure that its agents, including a subcontractor, to whom it provides Protected Health Information received from or created by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply to Business Associate with respect to such information. In addition, Business Associate agrees to take reasonable steps to ensure that its employees' actions or omissions do not cause Business Associate to breach the terms of this Agreement.

(b) Notwithstanding the prohibitions set forth in this Agreement, Business Associate may use and disclose Protected Health Information as follows:

(i) if necessary, for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate, provided that as to any such disclosure, the following requirements are met:

(A) the disclosure is required by law; or

(B) Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and accessed, used, or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached, within five calendar days of discovering said breach of confidentiality;

(ii) for data aggregation services, if to be provided by Business Associate for the health care operations of Covered Entity pursuant to any agreements between the Parties evidencing their business relationship. For purposes of this Agreement, data aggregation services means the combining of Protected Health Information by Business Associate with the protected health information received by

Business Associate in its capacity as a business associate of another covered entity, to permit data analyses that relate to the health care operations of the respective covered entities.

(c) Business Associate will implement appropriate safeguards to prevent access to, use of, or disclosure of Protected Health Information other than as permitted in this Agreement. The Secretary of Health and Human Services shall have the right to audit Business Associate's records and practices related to use and disclosure of Protected Health Information to ensure Covered Entity's compliance with the terms of the HIPAA Privacy Rule. Business Associate shall report to Covered Entity any access, use, or disclosure of Protected Health Information which is not in compliance with the terms of this Agreement of which it becomes aware within five calendar days of discovering such improper access, use, or disclosure. In addition, Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use, disclosure, or access of Protected Health Information by Business Associate in violation of the requirements of this Agreement.

III. AVAILABILITY OF PHI

Business Associate agrees to make available Protected Health Information to the extent and in the manner required by Section 164.524 of the HIPAA Privacy Rule. Business Associate agrees to make Protected Health Information available for amendment and incorporate any amendments to Protected Health Information in accordance with the requirements of Section 164.526 of the HIPAA Privacy Rule. In addition, Business Associate agrees to make Protected Health Information available for purposes of accounting of disclosures, as required by Section 164.528 of the HIPAA Privacy Rule.

IV. TERMINATION

Notwithstanding anything in this Agreement to the contrary, Covered Entity shall have the right to terminate this Agreement and the Service Agreement immediately if Covered Entity determines that Business Associate has violated any material term of this Agreement. If Covered Entity reasonably believes that Business Associate will violate a material term of this Agreement and, where practicable, Covered Entity gives written notice to Business Associate of such belief within a reasonable time after forming such belief, and Business Associate fails to provide adequate written assurances to Covered Entity that it will not breach the cited term of this Agreement within a reasonable period of time given the specific circumstances, but in any event, before the threatened breach is to occur, then Covered Entity shall have the right to terminate this Agreement and the Service Agreement immediately, and seek injunctive and/or declaratory relief in a court of law having jurisdiction over Business Associate.

V. MISCELLANEOUS

Except as expressly stated herein, in the HIPAA Privacy Rule, or under California law, the parties to this Agreement do not intend to create any rights in any third parties. The obligations of Business Associate under this Section shall survive the expiration, termination, or cancellation of this Agreement, the Service Agreement and/or the business relationship of the parties, and shall continue to bind Business Associate, its agents, employees, contractors, successors, and assigns as set forth herein.

This Agreement may be amended or modified only in a writing signed by the Parties. No Party may assign its respective rights and obligations under this Agreement without the prior written consent of the other Party. None of the provisions of this Agreement are intended to create, nor will they be deemed to create any relationship between the Parties other than that of independent parties contracting with each other solely for the purposes of effecting the provisions of this Agreement and any other agreements between the Parties evidencing their business relationship. This Agreement will be governed by the laws of the State of California. No change, waiver or

discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

The parties agree that, in the event that any documentation of the parties, pursuant to which Business Associate provides services to Covered Entity contains provisions relating to the use or disclosure of Protected Health Information which are more restrictive than the provisions of this Agreement, the provisions of the more restrictive documentation will control. The provisions of this Agreement are intended to establish the minimum requirements regarding Business Associate's use and disclosure of Protected Health Information.

In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this Agreement will remain in full force and effect. In addition, in the event a party believes in good faith that any provision of this Agreement fails to comply with the then-current requirements of the HIPAA Privacy Rule or California law, such party shall notify the other party in writing. For a period of up to thirty days, the parties shall attempt in good faith to address such concern and amend the terms of this Agreement, if necessary to bring it into compliance. If, at the conclusion of such thirty-day period, a party believes in good faith that the Agreement still fails to comply with the HIPAA Privacy Rule or California law, then either party has the right to terminate this Agreement and the Service Agreement upon written notice to the other party. Neither party may terminate this Agreement without simultaneously terminating the Service Agreement, unless the parties mutually agree in writing to modify this Agreement or immediately replace it with a new Business Associate Agreement that fully complies with the HIPAA Privacy Rule and California law.

Business Associate acknowledges that Natividad Medical Center (NMC) has established a Corporate Compliance Program, and under this program NMC has developed a Code of Conduct Manual to provide guidance in the ethical and legal performance of our professional services. Business Associate further agrees to abide by all principles stated in the Code of Conduct while conducting business with Natividad Medical Center. A copy of the Code of Conduct & Principles of Compliance is available upon request.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year written above.

COVERED ENTITY:

BUSINESS ASSOCIATE:

By: _____

By: Teri Green

Title: _____

Title: Executive Vice President

Date: _____

Date: 3/4/09



CERTIFICATE OF LIABILITY INSURANCE

OP ID: GH

DATE (MM/DD/YYYY)

11/30/11

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Direct-Link Holding Group, LLC 1820 Galindo St #220 Concord, CA 94520 Gail Hodges		877-303-0052 925-363-0053	CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL ADDRESS: PRODUCER CUSTOMER ID #: TOYAN-1	FAX (A/C, No):
INSURED Toyon Associates, Inc. 1800 Sutter St. 6th Floor Concord, CA 94520		INSURER(S) AFFORDING COVERAGE		NAIC #
		INSURER A : CNA		
		INSURER B : Philadelphia Insurance		
		INSURER C :		
		INSURER D :		
		INSURER E :		
		INSURER F :		

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY	X		4031148743	01/01/12	01/01/13	EACH OCCURRENCE \$ 2,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000
A	AUTOMOBILE LIABILITY			4031148743	01/01/12	01/01/13	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS						BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR			4031150539	01/01/12	01/01/13	EACH OCCURRENCE \$ 3,000,000
	EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE						AGGREGATE \$ 3,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			4031148760	01/10/12	01/10/13	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/>	N/A				E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Professional			PHSD473854	01/01/12	01/01/13	Occ 5,000,000 Agg 5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

NAGIVIDAD MEDICAL CENTER AND THE COUNTY OF MONTEREY, ITS OFFICERS AND EMPLOYEES ARE HEREBY ADDED AS ADDITIONAL INSURED SB-146932-D WITH RESPECTS TO LIABILITY ARISING OUT OF THE NAMED INSURED'S OPERATIONS. COVERGE IS PRIMARY AND NON CONTRIBUTORY PER SB-146932-D 07/09 ATTACHED. CERTIFICATE HOLDER IS GRANTED A 30 DAY NOTICE OF CANCELLATION WITH (CON'T)

CERTIFICATE HOLDER Natividad Medical Center Brenda P. O. Box 81611 Salinas, CA 93913	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Gail Hodges
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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED – LIABILITY EXTENSION

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS LIABILITY COVERAGE FORM

Coverage afforded under this extension of coverage endorsement does not apply to any person or organization covered as an additional insured on any other endorsement now or hereafter attached to this Policy.

1. ADDITIONAL INSURED – BLANKET VENDORS

WHO IS AN INSURED is amended to include as an additional insured any person or organization (referred to below as vendor) with whom you agreed, because of a written contract or agreement to provide insurance, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

1. The insurance afforded the vendor does not apply to:
 - a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
 - b. Any express warranty unauthorized by you;
 - c. Any physical or chemical change in the product made intentionally by the vendor;
 - d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
 - e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
 - f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
 - g. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
 - h. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omission or those of its

employees or anyone else acting on its behalf. However, this exclusion does not apply to:

- (1) The exceptions contained in Subparagraphs d. or f.; or
- (2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

2. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.
3. This provision 2. does not apply to any vendor included as an insured by an endorsement issued by us and made a part of this Policy.
4. This provision 2. does not apply if "bodily injury" or "property damage" included within the "products-completed operations hazard" is excluded either by the provisions of the Policy or by endorsement.

2. MISCELLANEOUS ADDITIONAL INSURED

WHO IS AN INSURED is amended to include as an insured any person or organization (called additional insured) described in paragraphs 2.a. through 2.h. below whom you are required to add as an additional insured on this policy under a written contract or agreement but the written contract or agreement must be:

1. Currently in effect or becoming effective during the term of this policy; and
2. Executed prior to the "bodily injury," "property damage" or "personal and advertising injury," but

Only the following persons or organizations are additional insureds under this endorsement and coverage provided to such additional insureds is limited as provided herein:

a. Additional Insured – Your Work

That person or organization for whom you do work is an additional insured solely for liability due to your negligence specifically resulting

from your work for the additional insured which is the subject of the written contract or written agreement. No coverage applies to liability resulting from the sole negligence of the additional insured.

The insurance provided to the additional insured is limited as follows:

- (1) The Limits of Insurance applicable to the additional insured are those specified in the written contract or written agreement or in the Declarations of this policy, whichever is less. These Limits of Insurance are inclusive of, and not in addition to, the Limits of Insurance shown in the Declarations.
- (2) The coverage provided to the additional insured by this endorsement and paragraph F.9. of the definition of "insured contract" under **Liability and Medical Expenses Definitions** do not apply to "bodily injury" or "property damage" arising out of the "products-completed operations hazard" unless required by the written contract or written agreement.
- (3) The insurance provided to the additional insured does not apply to "bodily injury," "property damage," or "personal and advertising injury" arising out of the rendering or failure to render any professional services.

b. State or Political Subdivisions

A state or political subdivision subject to the following provisions:

- (1) This insurance applies only with respect to the following hazards for which the state or political subdivision has issued a permit in connection with premises you own, rent, or control and to which this insurance applies:
 - (a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
 - (b) The construction, erection, or removal of elevators; or
- (2) This insurance applies only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

This insurance does not apply to "bodily injury," "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality.

c. Controlling Interest

Any persons or organizations with a controlling interest in you but only with respect to their liability arising out of:

- (1) Their financial control of you; or
- (2) Premises they own, maintain or control while you lease or occupy these premises.

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for such additional insured.

d. Managers or Lessors of Premises

A manager or lessor of premises but only with respect to liability arising out of the ownership, maintenance or use of that specific part of the premises leased to you and subject to the following additional exclusions:

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

e. Mortgagee, Assignee or Receiver

A mortgagee, assignee or receiver but only with respect to their liability as mortgagee, assignee, or receiver and arising out of the ownership, maintenance, or use of a premises by you.

This insurance does not apply to structural alterations, new construction or demolition operations performed by or for such additional insured.

f. Owners/Other Interests – Land is Leased

An owner or other interest from whom land has been leased by you but only with respect to liability arising out of the ownership, maintenance or use of that specific part of the land leased to you and subject to the following additional exclusions:

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to lease that land; or

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- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

g. Co-owner of Insured Premises

A co-owner of a premises co-owned by you and covered under this insurance but only with respect to the co-owners liability as co-owner of such premises.

h. Lessor of Equipment

Any person or organization from whom you lease equipment. Such person or organization are insureds only with respect to their liability arising out of the maintenance, operation or use by you of equipment leased to you by such person or organization. A person's or organization's status as an insured under this endorsement ends when their written contract or agreement with you for such leased equipment ends.

With respect to the insurance afforded these additional insureds, the following additional exclusions apply:

This insurance does not apply:

- (1) To any "occurrence" which takes place after the equipment lease expires; or
- (2) To "bodily injury," "property damage" or "personal and advertising injury" arising out of the sole negligence of such additional insured.

Any insurance provided to an additional insured designated under paragraphs b. through h. above does not apply to "bodily injury" or "property damage" included within the "products-completed operations hazard."

3. The following is added to Paragraph H. of the BUSINESSOWNERS COMMON POLICY CONDITIONS:

H. Other Insurance

- 4. This insurance is excess over any other insurance naming the additional insured as an insured whether primary, excess, contingent or on any other basis unless a written contract or written agreement specifically requires that this insurance be either primary or primary and noncontributing.

4. LEGAL LIABILITY - DAMAGE TO PREMISES

- A. Under B. Exclusions, 1. Applicable to Business Liability Coverage, Exclusion k.

Damage To Property, is replaced by the following:

k. Damage To Property

"Property damage" to:

- 1. Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- 2. Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- 3. Property loaned to you;
- 4. Personal property in the care, custody or control of the insured;
- 5. That particular part of any real property on which you or any contractors or subcontractors working directly or indirectly in your behalf are performing operations, if the "property damage" arises out of those operations; or
- 6. That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraph 2 of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs 1, 3, and 4, of this exclusion do not apply to "property damage" (other than damage by fire or explosion) to premises:

- (1) rented to you;
- (2) temporarily occupied by you with the permission of the owner, or
- (3) to the contents of premises rented to you for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to Damage To Premises Rented To You as described in Section D - Liability and Medical Expenses Limits of Insurance.